

Response Under 37 CFR 1.116
Expedited Procedure
Examining Group 3724

Remarks

Claim Rejections - 35 USC 102(b) and 35 USC 103

Claims 2, 4, 6, 7, 11 and 13 stand rejected as being anticipated by, or alternatively, as obvious over, King.

Claims 3, 5 and 12 stand rejected as being unpatentable over King.

In this Amendment After Final Action, claim 13 is amended to delete certain features, and add certain features. The amendments to claim 1 are presented in a more precise form to clarify the claimed invention. Amendment to the claim is clearly supported in the specification. No new matter is added, and therefore, an additional search is not required.

Enclosed is a Table comparing the problems concerned, and the aims and positioning of the plate disclosed in the Application (reference numeral 11) and that disclosed in King (reference numeral 40). This clearly shows that the plate in King is not a finger guard (finger protection device) and could never assume this function due to its position within the machine and on account of its dimensions. Details are given in the table. This table clearly indicates that not only differences of purpose but also marked differences of construction are involved, such as the size of the gap widths (cf. Fig. 2 of the Application, gap a and gap b). Another significant factor is, of course, the side of the device on which the operator is positioned and where the plate is disposed on each device. Thus the operator does not form part of the device, and that side of the device where the operator must work must be defined as such. This is necessary, since a finger guard only makes sense at a location which is accessible to the fingers of the operator.

Thus the person skilled in the art would never consider consulting King, since he would realize that the cutting region is there located in an inaccessible position beneath the slide member (20) and the equally inaccessible plate (40)- which serves a completely different

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purpose – could never assume the function of a finger guard, since it is situated at a position which is totally inaccessible to the fingers of the operator.

The only point in common is the use of a plate which is parallel to and opposite the cutting plane of the knife. All other points – the size of the gaps, the located of the plates, one on the operating side of the apparatus and one hidden within the apparatus, as well as the purpose and function of the respective plates – are totally different.

No significance can be attached to whether the cutting plane is vertical or horizontal or to the direction in which the system in King is rotated. This has no effect on the aforementioned points of difference.

In our response to the Office Action dated 2005-03-10 we explained why the operating side is disclosed. In this way the standpoint of the operator with reference to Fig. 2 is also disclosed. The fact that the cut section remains lying on the freely accessible back face of the knife is disclosed on page 9, lines 11 and 12 (PCT: page 8 lines 31 and 32). The feature to the effect that the cut section is manually removed from the back face of the knife is disclosed on page 9, line 2 (PCT: page 8, line 19). The feature reading “ and spaced from the cutting plane by a gap” is disclosed on page 9, lines 4 and 5 (PCT: page 8 lines 19, 20, and 21). The choice of gap width between the maximum section thickness which can be set on the microtome and 2 mm is disclosed on page 4, last line and page 5 lines 1 and 2 (PCT: page 4, 2nd paragraph).

The feature to the effect that the width of the gap between the knife and the edge of the plate (11) is not more than 2.5 mm is disclosed on page 9, line 9 (PCT: page 8, lines 27 and 28).

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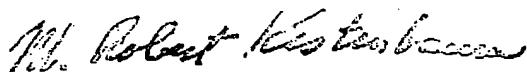
A two-month extension of time in which to respond to the outstanding Office Action is hereby requested. Credit Card Payment Form PTO-2038 is enclosed authorizing charging a credit card for the prescribed Large Entity two-month extension fee of \$450.

Wherefore, further consideration and allowance of the claims, as now further amended, is respectfully requested. Applicant respectfully believes that this Amendment after Final Action places the claims in condition for allowance.

Respectfully submitted,

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I hereby certify this correspondence is being submitted to Commissioner for Patents, Alexandria, Virginia, by facsimile transmission on November 3, 2005, fax number (571) 273-8300.



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